From: maria torres [mailto:mujercoahuilteca@gmail.com]
Sent: Wednesday, January 07, 2015 9:51 AM
To: Gee, Randy <Gee.Randy@epa.gov>; maria torres <mujercoahuilteca@gmail.com>
Subject: Re: Cultural Resources Report year 2011 indicated EPA jurisdiction for proposed Coal Mine at Eagle Pass Texas

Randy

Enclosed please find Cultural Resources Report year 2011 for Cultural Resources Lands affected by proposed Coal Mine. Please confirm/reply. Thank you.

Coahuilteca Indian Tribe Nation
The Pacuache Clan of Texas
Mary Torres
(210) 483-3879

§12.125 **GENERAL ENVIRONMENTAL RESOURCES INFORMATION.**
[Revised: effective November 4, 1997; 22 TexReg 10640; October 31, 1997]

Each application shall describe and identify:

(1) the size, sequence, and timing of the subareas of the permit and adjacent areas for which it is anticipated that individual permits for mining will be requested over the estimated total life of the proposed surface mining activities; and

(2) the nature of cultural, historic and archeological resources listed on or eligible for listing on the National Register of Historic Places and known archeological sites within the proposed permit and adjacent areas.

(A) The description shall be based on all available information, including, but not limited to, information from the State Historic Preservation Officer and from local archeological, historical, and cultural preservation agencies.

(B) The Commission may require the applicant to identify and evaluate important historic and archeological resources that may be eligible for listing on the National Register of Historic Places, through:

(i) collection of additional information;

(ii) conduct of field investigation; or

(iii) other appropriate analyses.

§12.125 GENERAL ENVIRONMENTAL RESOURCES INFORMATION

Each application shall describe and identify:

125 (1) the size, sequence, and timing of the subareas of the permit and adjacent areas for which it is anticipated that individual permits for mining will be requested over the estimated total life of the proposed surface mining activities; and

The size, sequence, and timing of the subareas of the permit and adjacent areas are described in Section 139 of this application.

Exhibit 125-2 "Building Structures" provides an overview of the various buildings within and adjacent to the proposed permit area. The subsequent sheets, labeled Sheet 125-2A, Site 1; Sheet 125-2B, Site 2; etc...for a total of 11 sheets, provides a more detailed view including a general use description.

125 (2) the nature of cultural, historic and archeological resources listed on or eligible for listing on the National Register of Historic Places and known archeological sites within the proposed permit and adjacent areas.

There are no publicly owned parks that will be adversely affected by the proposed operations and, at this time, there are no places eligible for listing on the National Register of Historic Places (NRHP) (see Table 125-1). At such time that a site is determined to be eligible, a cultural resource evaluation plan will be prepared for the site by a consulting archaeology firm. This plan will include either a description of measures to prevent adverse impacts, a description of measures to minimize adverse impacts, or measures to mitigate the site, whichever is the appropriate action. If the site is to be mitigated utilizing appropriate mitigation and treatment measures, these measures will be identified in a plan developed by the archaeology consulting firm. This plan will be reviewed and approved by the THC prior to conducting any work on the site. A copy of the approved plan will be provided to the RCT. Appropriate mitigation and treatment measures will occur after the plan is approved and will be completed before the properties are affected by any mining operation. No archaeology site will be disturbed by any mining activity until it has been cleared by the THC. A copy of all transmittal letters and attachments with the THC regarding this project will be provided to the RCT.

Exhibit 125-1 "surface Encumbrances" includes archaeology sites, electric transmission lines, and oil and gas well locations. Prior to disturbance by mine-related activities, all cultural resource sites will be identified and mitigated or avoided.

Introduction

The information presented in this section consists of data derived from archaeological surveys, testing operations, research designs and data recovery plans, and a recently completed cultural resources treatment plan for the Eagle Pass Mine. These investigations were carried out by Espey, Huston & Associates, Inc. (EH&A, now PBS&J); the Center for Archaeological

Research, University of Texas at San Antonio (CAR); Archaeology Consultants, Inc. (ACI); Horizon Environmental Services, Inc.; Gonzalez, Tate & Iruegas, Inc. (GTI); PBS&J; and TAS, Inc. (TAS) within the Area of Potential Effect (APE) of the Permit 42, Eagle Pass Mine, Maverick County, Texas. The mine is located about 13 kilometers (km) (8 miles) northeast of Eagle Pass, along the valley and adjoining uplands of Elm Creek and is operated by the North American Coal Corporation, Inc. (NAC)

As set forth in Iruegas (2004:1), mining activities are under the direct jurisdiction of the Environmental Protection Agency's (EPA) delegated agency representative, the Railroad Commission of Texas (RCT), and Texas Commission on Environmental Quality, among other federal agencies, such as the U.S. Fish and Wildlife Service and the U.S. Army Corps of Engineers. Accordingly, the undertaking falls under the regulations of Section 106 of the National Historic Preservation Act of 1966, as amended. Eagle Pass Mine, the EPA, the Advisory Council on Historic Preservation, and the State of Texas Historic Preservation Officer signed a Programmatic Agreement (PA) in 1994, and agreed that the PA was "applicable to the life-of-mine Project as delineated on Figure 4-2 of the EPA's Draft Environmental Impact Statement." This PA is included as Appendix 125-1 of this document. Since the 1994 PA, the EPA has delegated its permit responsibilities to the RCT. Although the EPA is a signatory to the PA for this federal undertaking, the EPA and the Texas Historical Commission (THC) have agreed to continue Section 106 consultation within the framework of the Memorandum of Understanding between the THC and RCT, as the RCT issues mining permits in the State of Texas for the EPA.

Environmental Background

Permit 42, Eagle Pass Mine is located in southwestern Texas in western Maverick County, about 10 km (6 miles) east of the Rio Grande and about 13 km (8 miles) northeast of Eagle Pass, Texas. Johnson (1931:133–141) includes this area in the South Texas Plains Natural Region and describes it as eroded plains marginal to the Rio Grande. The mine is situated within or adjacent to the valley of Elm Creek, which flows toward the south-southwest into the Rio Grande. The climate is classified as Subtropical Steppe, characterized by semiarid to arid conditions (Larkin and Bomar 1983:2–3). The underlying geologic formations in the western and northwestern parts of the mine consist of Pliocene or Pleistocene Uvalde Gravel, containing pebbles and cobbles of chert, quartz, and igneous rocks; the eastern and southeastern portions are underlain by the Cretaceous-age Olmos Formation, consisting of clay, sandstone, and seams of coal. Along the west side of Elm Creek, there are Pleistocene fluviatile terrace deposits made up of gravel, sand, silt, and clay, while on the east side, the deposits consist of Holocene-age floodplain materials consisting of gravel, sand, silt, clay, and organic materials (Bureau of Economic Geology 1976). A number of unnamed tributaries flow into Elm Creek from the hills along the western and eastern sides of the mine. Elevations range from about 830 feet (ft) above mean sea level (amsl) in the hills at the western and eastern margins of the mine to about 750 ft amsl along Elm Creek in the southern part of the mine. According to the General Soil Survey Map for Maverick County (Stevens and Arriaga 1977), the soils within the mine consist of the Copita-Prior-Dant association along the eastern margin, made up of sandy clay loams and clay loams, while the remainder of the area contains the Elindio-Montell association composed of silty clay loams and clay. The mine is located within the South Texas Plains Vegetational Area, originally a grassland savannah, containing oak, pecan, and ash along the streams, and oaks and grasses in the uplands

(Hatch et al. 1990:13). Blair (1950:98) includes this area within the Tamaulipan Biotic Province, which he characterized, at the time of his study, as thorny brushland. Among the larger mammals that may have been found in the general area in earlier times are white-tailed deer and pronghorn (Davis and Schmidly 1994:281–287), and bison are reported to have been in the area in 1675 (Hester 1980:44; CAR 1995).

Cultural Background

Cultural History

The temporal framework for prehistoric archaeological sites in the Middle Rio Grande Region of Texas is generally categorized into three main periods: the Paleoindian, the Archaic, and the Late Prehistoric. The Archaic period is further subdivided into the Early Archaic, the Middle Archaic, and the Late Archaic. Suhm et al. (1954), Suhm and Jelks (1962), and Prewitt (1981, 1985) established this general framework based on the occurrence of projectile point types and other technological changes associated with environmental changes and the evolution of associated subsistence strategies. Changes in settlement and subsistence patterns usually accompany these technological changes. However, the Middle Rio Grande Region is noted for its cultural conservatism. Throughout the long period from the end of the Paleoindian until historic times, the economy was apparently based on the collecting of plant resources, small animals, and shellfish along with the hunting of larger game. Thus, periods demarcating changes other than projectile point types are often much more subtle in the region than some other parts of Texas.

Paleoindian Period (Prior to 12,000–8500 B.P.)

The known prehistory of the Middle Rio Grande Region appears to have commenced with the Paleoindian period. These early peoples are generally characterized as nomadic bands with an emphasis on the hunting of large mammals. Population density and band sizes throughout South Texas and the Rio Grande Plain are surmised to have been relatively low. It is increasingly clear, however, that small game and plant resources also played an important part in the Paleoindian economic system. No clear evidence of early Paleoindian settlement is evident in the region. However, the latter part of the period, sometimes referred to as the "Late Paleoindian" or "Pre-Archaic," is represented at a number of sites in the region, and there is little difference between the latter Paleoindian period and the broad-spectrum "Archaic" economic patterns. Diagnostic projectile points include nonfluted lanceolate types such as Golondrina and Angostura. In addition, the poorly dated Lerma dart point commonly found in the region has been tentatively assigned to this period (Hester 1995).

Archaic Period (8500–1200 B.P.)

The Archaic period is usually subdivided into the Early Archaic (8500–6000 years B.P.), Middle Archaic (6000–3500 years B.P.), and Late Archaic (3500–1200 years B.P.). The Archaic period is characterized by increasing temperatures coinciding with rising sea levels and associated changes in freshwater streams and rivers. These changing environmental conditions served as a major impetus for an increase in floral and faunal resource variety and availability for the inhabitants coupled with the decrease in the big game hunting tradition of the Late Pleistocene. As the environment changed, the Archaic peoples' diet changed as well as their stone tool technology and assemblages that they used to procure and process these new plants and animals.

Also associated with the Archaic period is a progressive increase in regional diversification in diet and material culture. In general, Archaic people began to make their smaller, stemmed projectile points as the lanceolate forms fell from use.

Early Archaic artifacts found in the Eagle Pass area are typical of the triangular and stemmed projectile points found elsewhere in South Texas and adjacent areas of northern Mexico. For the Early Archaic period, Hester (1995) distinguishes between the "Early Corner Notched Horizon" consisting of Martindale-Uvalde-Baker point types and the later "Early Basal Notched Horizon" consisting of Andice and Bell point types. Cultural materials from this period indicate an increased use of stone-lined hearths and the probable exploitation of terrestrial and aquatic food resources. Sites generally are found on high terraces or upland areas. During the transition from the Early Archaic to the Middle Archaic, stemmed points become more common and begin to show a greater degree of diversity in point form.

The Middle Archaic in the Rio Grande Plain is rather generally defined in terms of both temporal and cultural adaptation parameters, relying to an extent on comparisons with the Lower Pecos region and other areas of South Texas (Black 1989:49). Black (1989:49) notes that Middle Archaic sites are much more common in South Texas than those of earlier periods and that sites seem to occur in a much broader range of topographic settings. The Middle Archaic is generally characterized by population increases, an expansion of lithic technologies, and more-intensive utilization of plant food resources. Larger, compacted hearths and ground stone tools are believed to indicate increased utilization of plant foods (Black 1989). Gouges are present in artifact assemblages in increased numbers over the preceding period, possibly suggesting increased wood- or hide-working activities (Hester 1995). In the Eagle Pass area, dart points from this period consist of Tortugas, Abasolo, Carrizo, and Bulverde types.

The Late Archaic represents a continuation of trends begun in the Middle Archaic, mainly increasing population and exploitation of the environment. As with the preceding period, populations in the Late Archaic exploited plant food resources, small game, and aquatic resources. Unstemmed dart points of the Matamoros and Catan types, and Nueces scrapers and other distally beveled tools are characteristic of the Late Archaic. Other types from this period commonly found in the region include Desmuke, Shumla, and Olmos bifaces (Hester 1995).

Late Prehistoric Period (1200–450 B.P.)

The major innovation that characterized this period in the Middle Rio Grande Region was the introduction of the bow and arrow around A.D. 800. Other technology also evolved with this new weapon. A shift in hunting practices is evident during the Late Prehistoric as points become smaller and more morphologically varied. Some researchers hypothesize that the shift to smaller projectiles coincides with a shift to smaller animals than those previously targeted with dart points and spears. Some of these stone arrow points include the Perdiz, Scallorn, Zavala, Fresno, Cuney, Starr, Padre, and Alba types. The second greatest innovation during this period was the development of ceramics. Prehistoric ceramics of the region are generally bone and/or sand tempered. Settlement patterns also change at this time, as sedentary and horticultural communities become more common. Maize is first utilized in Texas during the Late Prehistoric, and its presence is generally interpreted as evidence of exchange networks between sedentary agricultural groups and nomadic hunters and gatherers. However, no evidence of maize

cultivation is present in the region. Archaeological site types also include open camps, lithic scatters, and cemeteries.

Historic Native American Period (450 B.P.–Present)

The Historic Native American period begins with the first contact between aboriginal groups and European explorers in the early sixteenth century. The first European explorer to reach Texas was probably Alvar Nuñez Cabeza de Vaca who was shipwrecked on the Gulf coast in 1528. Cabeza de Vaca was stranded in Texas for 8 years and traveled throughout southern Texas and Mexico interacting with aboriginal groups. He eventually reached Spanish frontier settlements and returned to Spain. During his journey, Cabeza de Vaca visited a number of indigenous groups and later, in writing of his experiences, provided documentation of Native American customs, subsistence practices, and cultural differences in his travels. Although it is unlikely that Cabeza de Vaca's travels took him as far as Eagle Pass (Campbell and Campbell 1981), his descriptions of the Indians of the region is relevant. Subsequent European impacts on aboriginal Texas began during the early 1700s with the establishment of the Spanish missions. Spanish chroniclers noted that the groups, mainly Coahuiltecans, were nomadic hunter-gatherers who moved around the landscape exploiting seasonal foods (Campbell and Campbell 1981). Increased pressures from southward territorial expansion by the Apache and Comanches pushed other Native American groups southward to the Rio Grande in the eighteenth and early nineteenth centuries, while Spanish expansion into northern Mexico drove other groups northward into South Texas (Hester 1989). Although the Tonkawa were one of the more numerous Native American groups in Texas, the Ervipiame moved into the area from northern Mexico and many of them joined the Tonkawa groups as a matter of survival (Hester 1980:51). The Lipan Apaches immigrated and came from the northwest into Texas. Hester (1980:51) has noted that by the early 1700s, the Lipan Apache numbered between 3,000 and 5,000 in population size and controlled the Central Texas area by 1775. Shortly thereafter, the Comanches moved into Texas from the Colorado and Wyoming areas and displaced the Tonkawa and Lipan Apache groups.

Previous Investigations in the Region

At the regional level, systematic cultural resource studies had been conducted from the mid 1950s to the early 1990s in the central western Texas and Rio Grande Plain regions. The majority of the investigations had occurred in three subregions: the Big Bend, the Lower Pecos Canyonlands, and the Rio Grande Delta (Adams et al. 1975, 1976, 1977; Brown 1979; Campbell 1979, 1988; EH&A 1979, 1981; Eaton 1975; Fox 1979; Hester 1978; Hester and Hill 1972; Hester et al. 1973; Hill and Hester 1971; Huebner 1991; Nunley 1989; Nunley and Hester 1966, 1975; Potter 1990; Ruecking 1953, 1955a, 1955b; Sobolik 1991). Outside of studies directly associated with the mine, only a few cultural resources investigations have occurred in the immediate vicinity, but important treatises on the archaeology of South Texas (Hester 1980), the Rio Grande Plain (Hester 1976a), and the middle-lower Rio Grande area (Hester and Eaton 1983) have been presented. The cultural inventory, culture history, archaeological theory, and research goals for the surrounding regions have already been detailed in the literature of the 1980s and 1990s (Black 1989; Gomez 1990; Hester and Eaton 1983; Mallouf 1986; Salinas 1990; Shafer 1986; Turpin 1991).

The early groundwork was laid when Suhm et al. (1954:135–143) identified three stages within the culture history of a broad segment of the plains of southern Texas and northern Mexico that includes the current mine area. The three stages advanced by Suhm et al. (1954:37) were (1) Paleo-American, beginning in North America at an unknown time and continuing until about 5000–4000 B.C.; (2) Archaic, from 4000 or 3000 B.C. to between A.D. 1 and 1000; and (3) Historic, from initial European contact to the present. This scheme was based on interpretations of diagnostic artifacts gathered mostly from surface cultural deposits by local avocational archaeologists and relic collectors. The few archaeological excavations in the area had been confined to the immediate vicinity of the Rio Grande, and had focused on sites within the Zapata and Rosita terrace deposits (Suhm et al. 1954:37).

Many schemes were proposed to develop a comprehensive prehistoric cultural chronology and technological typology for the middle Rio Grande area compatible with the general cultural chronology of Suhm et al. (1954) including those of MacNeish (1958), Montgomery (1978:15), Hester (1980:156), and Black (1989:39, 48–57, 61).

Investigation of cave sites in the Trans-Pecos area was a focus of some early investigations. These excavations targeted dry caves to develop stratigraphic approaches to local culture history. The Work Projects Administration and other research work provided basic descriptive data on sites within this portion of the Rio Grande valley. The Bonfire Shelter excavations still provide the most-detailed information on Paleoindian adaptations in this area (Dibble and Lorrain 1968). Cave excavations in southwestern Texas (Alexander 1970; Brown 1991; Stock 1982; Williams-Dean 1979) and northeastern Mexico (Epstein 1969; Nance 1992) also have produced valuable data relevant to adaptations in this region. Reanalysis of some of the materials from these early cave investigations has been conducted (Maslowski 1978; Prewitt 1970).

During the late 1960s and 1970s while at the University of Texas at San Antonio and Director of the CAR, T.R. Hester supported several archaeological investigations in proximity to the Maverick County area. These were comprehensive surveys and excavations primarily of aboriginal occupation sites located in major stream and river valleys of Dimmit, Starr, and Zavala counties (Fox 1979; Hester 1978; Hester and Hill 1972; Hill and Hester 1971; Montgomery 1978; Nunley and Hester 1966, 1975). These and similar archaeological projects conducted under Hester's overall direction in other areas of South Texas during the same period resulted in the forging of several important theoretical syntheses (cf. Hester 1971, 1974, 1975a, 1975b, 1976a, 1976b, 1980, 1981; Hester, ed. 1976; Hester and Hill 1975).

In 1975, the National Endowment for the Humanities funded a major archaeological and ethnohistorical investigation of the area along both sides of the international border near Eagle Pass-Piedras Negras and in Guerrero, Mexico. The project, undertaken by CAR and directed by R.E.W. Adams, focused on the Spanish gateway missions and also on prehistoric archaeological sites along the Rio Grande. It amassed a significant volume of data relevant to the management of the area's cultural resources (Adams et al. 1975, 1976, 1977; Eaton 1975; Nunley 1975, 1977). In conjunction with the project, Nunley discovered and documented approximately 162 archaeological sites (most of which had prehistoric components and 69 of which were in Maverick County).

With assistance from the Department of Housing and Urban Development, EH&A prepared An Assessment of the Known Cultural Resources of the Middle Rio Grande Area Prior to European Contact for the Middle Rio Grande Development Council of Del Rio, Texas in 1979. The report contains a compendium of recorded archaeological sites, cultural chronologies, and trait lists, and cites 301 references pertinent to the history and archaeology of the nine-county area studied.

One of the most comprehensive archaeological investigations in the region is the data recovery of nearby site 41MV120 (Vierra 1998). This site has received the most detailed and thorough excavation, interdisciplinary recovery, and analyses for any site in this area. Especially important is the controlled stratigraphic data analysis and geoarchaeological investigation addressing climatic reconstruction changes in stream evolution, rates of sedimentation at 41MV120, and projections regarding archaeological utility of these data. A detailed cultural background review associated with the reporting of 41MV120 provided an examination of previously recorded site distributions, types, and settings found throughout the Eagle Pass-Maverick County region. Using data from 190 recorded sites, Hunziker (1998) examined variables including site size, type, setting, elevation, and chronology. The study revealed that Late Archaic campsites represent the greatest density of documented sites in the area with lesser amounts of Early and Middle Archaic and Late Prehistoric sites. The study showed Early to Late Archaic campsites at varying elevations, with Middle Archaic sites more prevalent at high elevations and Late Archaic sites at low elevations (Hunziker 1998:19). Most sites occur at elevations of 230–240 meters (m) amsl. Larger sites appear to be concentrated in the Rio Grande floodplain and lower terraces below 275 m amsl, small sites along high creeks and upland slopes, and broad, lithic procurement sites on ridgetops and upland slopes above 248 m amsl (Hunziker 1998). This site study suggested a settlement pattern similar to previously proposed patterns, namely large base camps on the lower floodplains and streams with smaller campsites and resource extraction locales in the uplands and high creek settings (Hester 1976b; Hunziker 1998).

Previous Cultural Resource Investigations at the Eagle Pass Mine

The earliest documented cultural resources investigations in the mine were in 1981 when EH&A conducted a cultural resources survey of the then-proposed Maverick County Coal Project for Dahlstrom Corporation of Buda, Texas. EH&A surveyed a 3,044-acre area west of the Union Pacific Railroad, much of which is within the present mine. EH&A (1981:Appendix A) recorded 43 cultural resource sites (41MV131–41MV173).l Of these, EH&A recommended 14 sites (41MV133, 41MV136, 41MV139, 41MV141, 41MV150, 41MV152, 41MV154, 41MV156–41MV161, and 41MV167) for further investigation and recommended no further investigation for the remaining 29 sites (Table 125-1).

Shortly after EH&A's cultural resources survey, the THC standardized the process of archaeological investigations associated with mining activities (THC 1981) and determined that the intensity of investigation utilized during EH&A's 1981 survey was not sufficient to meet their revised standards for survey and evaluation of sites. For this reason, EH&A's recommendations were set aside.

In 1992, CAR conducted a cultural resources survey for Marston & Marston, Inc., of St. Louis, Missouri (Uecker 1994), of an approximately 2,700-acre area including a resurvey of about 1,629 acres west of the Union Pacific Railroad that had been previously surveyed by EH&A.

CAR also surveyed about 1,071 acres east of the Union Pacific Railroad that is largely within the present mine (Uecker 1994). CAR recorded 27 new cultural resource sites (41MV174–41MV200) in this area (Table125-1). CAR also conducted geomorphological investigations on the then-proposed mine area and relocated and reevaluated six of the sites previously recorded by EH&A (41MV139, 41MV158–41MV161, and 41MV167).

In the conclusions of their survey report (Uecker 1994), CAR recommended no further investigations at sites 41MV139, 41MV158, 41MV159, 41MV167, 41MV174–41MV181, 41MV191, 41MV192, 41MV196–41MV198, and 41MV200. Of the remaining sites, CAR recommended Phase I investigation at sites 41MV131, 41MV132, 41MV135–41MV138, 41MV141–41MV146, 41MV155, 41MV157, 41MV164–41MV166, 41MV168, and 41MV170–41MV173. Finally CAR recommended National Register of Historic Places (NRHP) eligibility testing at sites 41MV160, 41MV161, 41MV182–41MV190, 41MV193–41MV195, and 41MV199. Sites 41MV133, 41MV134, 41MV140, 41MV147, 41MV148, 41MV149–41MV154, 41MV156, 41MV162, 41MV163, and 41MV169, previously recorded by EH&A, were not considered in CAR's recommendations because they were outside of the then-proposed mine area (see Table 125-1).

In 1993, ACI conducted limited subsurface investigations at 37 sites (Uecker and Warren 1995) including 41MV131, 41MV132, 41MV135–41MV138, 41MV141–41MV146, 41MV155, 41MV157, 41MV160, 41MV161, 41MV164–41MV166, 41MV168, 41MV170–41MV173, 41MV182–41MV190, 41MV193–41MV195, and 41MV199. Two additional sites, 41MV201 and 41MV202 were also located during survey investigations but were only subjected to surface inventories. ACI recommended 21 of these sites for NRHP eligibility testing including 41MV135–41MV138, 41MV141, 41MV144, 41MV145, 41MV157, 41MV160, 41MV161, 41MV164, 41MV184–41MV187, 41MV189, 41MV190, 41MV193, 41MV199, 41MV201, and 41MV202 (see Table 125-1).

ACI also conducted a cultural resources survey of a proposed access road for Marston & Marston, Inc. in 1994. The road route crossed sites 41MV157 and 41MV168. No NRHP contributing elements were observed in the portions of the two sites within the proposed route right of way (Houk and Warren 1994).

In 2005, GTI Consultants conducted NRHP eligibility testing investigations for NAC at site 41MV164 (Iruegas et al 2009 a) and later at sites 41MV135–41MV138, 41MV144, 41MV145, and 41MV160 (Iruegas et al 2009 b). The two investigations concluded that sites 41MV144 and 41MV145 were not eligible for listing in the NRHP and that sites 41MV135–41MV138, 41MV160, and 41MV164 were eligible for listing in the NRHP and thus warranted archaeological data recovery to mitigate adverse impacts of the proposed mining activities. . The THC concurred with GTI's recommendations, but requested revisions to two testing reports. In 2009, PBS&J revised the test reports and submitted them to the THC. In 2006 and 2007, PBS&J consulted with the THC and submitted to that agency a plan for archaeological data recovery at sites 41MV135–41MV138, 41MV160, and 41MV164 discussed above. After receiving THC concurrence, PBS&J implemented the plan and submitted an interim report of findings to the THC. The THC concluded that no further excavations were warranted for these sites. PBS&J is currently working on the draft report of data recovery investigations for submission to the THC.

PBS&J in early 2009 submitted a draft cultural resources report to the THC related to the field investigation of 17 cultural resource sites, including 8 newly recorded sites. The sites studied were 41MV134, 41MV140, 41MV147-41MV149, 41MV156, 41MV158, 41MV162, 41MV169 and 41MV309-41MV316. Of those 17 sites, PBS&J recommended further investigation at only one of the sites – 41MV149. The THC accepted the draft report and concurred with the findings of the report. PBS&J subsequently submitted a final report of the investigation to the THC.

As part of its tasks, PBS&J also performed National Register of Historic Places testing investigations on sites 41MV141, 41MV157 and 41MV161 in 2009. PBS&J is currently working on the draft report related to those sites and its recommendation will be that none of the sites are eligible for listing on the National Register of Historic Places. In 2009, TAS Inc surveyed a 1625-acre tract of the Eagle Pass Mine located east of the Union Pacific Railroad and generally east of Elm Creek. The survey identified 26 prehistoric sites (41MV317-342) and rerecorded five sites (41MV163, 41MV170, 41MV181, 41MV187, and 41MV193). The reassessment of 41MV163 concurred with previous evaluations that the site had no NRHP potential. In addition, 41MV187 and 41MV193, where NRHP testing had previously been recommended, were found to be seriously degraded and no longer potentially eligible. Sites 41MV318 and 41MV319 were considered to hold some potential for NHRP eligibility. The THC concurred that sites 41MV181, 41MV320, 41MV321, 41MV322, 41MV326, 41MV327, 41MV328, 41MV329, 41MV330, 41MV331, 41MV332, 41MV333, 41MV335, 41MV338, 41MV339, 41MV340, 41MV341 and 41MV342 are ineligible for inclusion in the NRHP and that sites 41MV318 and 41MV319 needed further testing. Additionally, the THC requested additional documentation and/or testing for sites 41MV187, 41MV193, 41MV317, 41MV323, 41MV324, 41MV325, 41MV334, 41MV336 and 41MV337. Additional information has been provided and concurrence from the THC that no additional testing is required for those sites has been received.

A copy of a letter from the Texas Historical Commission, dated October 26, 2010, provides the THC concurrence for sites 41MV141, 41MV157, and 41MV161 and has been provided.

There are a total of 11 remaining sites that need further work prior to mining disturbance. The remaining 11 sites are being addressed in accordance with 12.151(b) "The Commission may require the applicant to protect historic or archaeological properties listed on or eligible for listing on the National Register of Historic Places through appropriate mitigation and treatment measures. Appropriate mitigation and treatment measures may be required to be taken after permit issuance provided that the required measures are completed before the properties are affected by any mining operation."

Of the 11 remaining sites, only one (site 41MV149) is on the west side of the railroad tracks and is in block labeled "4". This site will be tested and mitigated prior to the construction of sediment pond SP-4. The timetable for this pond construction is listed in 12.148. Initiation of the testing/mitigation process will be approximately one year in advance of SP-4 construction but that time frame will be driven by archaeological consultants' bid packages and estimated completion dates. Appropriate mitigation and treatment measures will be taken after permit issuance and all required measures will be completed before the properties are affected by any mining operation.

Sites 41MV184, 185, 186, 189, 190, 201, and 202 are within or near the block labeled "4" on the east side of the railroad tracks and in the block labeled "5", immediately north of block "4" and south of proposed sediment pond SP-5. These sites will be tested and mitigated prior to the construction of SP-6. The timetable for this pond construction is listed in 12.148. Initiation of the testing/mitigation process will be approximately one year in advance of SP-6 construction but that time frame will be driven by archaeological consultants' bid packages and estimated completion dates. Appropriate mitigation and treatment measures will be taken after permit issuance and all required measures will be completed before the properties are affected by any mining operation.

Sites 41MV199, 318, and 319 are within or near the location of proposed stockpiles STP 16 and 17, immediately north of proposed sediment pond SP-5 on the north-east side of the railroad tracks. These sites will be tested and mitigated prior to the initiation of construction of SP-5, of these stockpiles and of CD-8 and CD-11. The timetable for the construction of SP-5 is listed in 12.148. Initiation of the testing/mitigation process will be approximately one year in advance of SP-5 construction but that time frame will be driven by archaeological consultants' bid packages and estimated completion dates. Appropriate mitigation and treatment measures will be taken after permit issuance and all required measures will be completed before the properties are affected by any mining operation as required in 12.151(b)

Conclusion

The location of all the identified sites that might have cultural resource value within the Eagle Pass Mine and their status with regard to whether they have been investigated, the level of investigation completed, those that require further investigation, and those where mitigation has been completed are listed in Table 125-1 and their locations are shown on Exhibit 125-1.

125 (2) (A) The description shall be based on all available information, including, but not limited to, information from the State Historic Preservation Officer and from local archeological, historical, and cultural preservation agencies.

The bibliography contained in this Section contains references to a wide variety of known data sources.

125 (2) (B) The Commission may require the applicant to identify and evaluate important historic and archeological resources that may be eligible for listing on the National Register of Historic Places, through:

125 (2) (B) (i) collection of additional information;

The Eagle Pass mine has worked closely with both the RCT and the THC in order to identify and evaluate any known historic or archaeological resources and will continue to do so in the future (see Table 125-1 and the appendices in Section 125).

125 (2) (B) (ii) conduct of field investigation; or

The Eagle Pass mine has worked closely with both the RCT and the THC in order to identify and evaluate any known historic or archaeological resources and will continue to do so in the future (see Table 125-1and the appendices in Section 125).

125 (2) (B) (iii) other appropriate analyses.

The Eagle Pass mine has worked closely with both the RCT and the THC in order to identify and evaluate any known historic or archaeological resources and will continue to do so in the future (see Table 125-1and the appendices in Section 125).

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APPENDIX 125-5

TEXAS HISTORICAL COMMISSION CORRESPONDENCE